TOBACCO COMPANY

Brothers of Famous W. T. Blackwell Get Charter.

THE TRUST ENJOINED

Incorporators Sue American Tobacco Company on the Ground of Having Forfeited Old State Charter and Not Having

Domesticated.

The name of Blackwell's Durham Tobacco Company has been often in the State and Federal Courts.

Yesterday a new charter was granted to Blackwell's Durham Tobacco litigation to determine whether that name belongs to the corporation organized under that name in New Jersey, or to the North Carolina Company

On Thursday application was made to the Secretary of State for a charter for Blackwell's Durham Tobacco Company, of Durham. The incorporators were two brothers of the late Col, W. T. Blackwell, of Durham-Mr. J. W. Flackwell and Mr. G. R. Blackwelland Major Wm. A. Guthrie and Mr. W. B. Guthrie. When the application was made to Col. Grimes, Secretary of State, that careful official, advertent to records of his office to ascertain whether it was still incoporated in North Carolina. He found that upon its anplication Blackwell's Durham Tobac-Carolina corporation in May, 1901, of North Carolina. and that the New Jersey corporation or that name had not been domestioffice-one in 1903 and one in 1904giving the names of the officers, etc. for domestication had never been complied with. After the investigation he came to the conclusion that the application of the Blackwells and Guthries ought to be granted, but inasmuch as it might present a new legal question or be followed by litigation, Col. Grimes decided not to issue the charter until he could confer with the Attorney General. Mr. Gilmer was not in Raleigh and therefore, Col. Grimes addressed him a letter setting forth the facts above detailed and asking him to advise the Secretary of State as to his duty in the premises, Attorney General Gilmer made investigation and advised Col. Grimes that the application was in legal form and that he could legally issue the charter. granted to Blackwell's Durham Tobacco Company, which met yesterday in Durham, organized under the charter by electing Mr. George R. Blackwell President of the Company, and instituted proceedings in Durham Superior Court for a perpetual injunction enpoining Blackwell's Durham Tobacco Company, of New Jersey, from

doing business in North Carolina. This suit is brought upon the new charter granted yesterday by the Secretary of State to the Blackwell's Durham Tobacco Company. It is the only coporation by that name chartered by or domesticated in North Carolina. It will be remembered that in the year 1900 or 1901, Major Wm. A. Guthrie the owner of one share of stock in Blackwell's Durham Tobacco Company, asked for a State receivership for that company, which had been purchased by the American Tobacco Comthe Federal Court. Judge Simontonof course-took the case out of the State courts, appointed one Hill, (ar American Tobacco Company man) as receiver of the Company, and its property was sold at auction. There was only one bid and the property was sold to Mr. Junius Parker, assistant general counsel of the American Tebacco Company. Judge Simonton erjoined Major Guthrie from petitioning the Legislature to repeal the charter of Blackwell's Durham Tobacco Company in the proceeding. After Judge Simonton's receiver sold the property to Mr. Parker, the North Carolina corporation known as Blackwell's Durham Tobacco Co, was dissolved and Simonton's receiver sold the property he had puchased from Judge Simonton's receiver to Blackwell's Durhan Tobacco Company, which had been or banized under the laws of New Jersey and it is under that charter that the business is conducted,

The incorporators of Blackwell' Durham Tobacco Company charteres yesterday propose to begin the busi ness of manufacturing Blackwell' Durham Smoking Tobacco as soon as the matter is determined and their there is a stiff fight ahead.

The Complaint Filed. The complaint filed by the new company sets forth their intentions and in full is as follows:

North Carolina - Durham County: . In the Superior Court, August Term, 1906. Blackwell's Durham Tobacco Compa

ny, vs. The American Tobacco Company. Blackwell's Durham Tobacco Company (an alleged corporation of New Jersey), C. W. Toms, W. W. Flowers and D. W. Andrews. Compaint.

The plaintiff complains and alleges 1. That the plaintiff, Blackwell' Durham Tobacco Company, is a corporation duly created, organized and existing under and by virtue of the laws of the State of North Carolina

(Continued on Page Eighteen.) with its principal office at Durham. in the county of Durham, State of North Carolina, and was so chartered and organized for the purpose of buying, manufacturing and selling to bacco in its various forms, including smoking tobacco, at Durham, within the county of Durham, in said State of North Carolina.

2. That the defendant, the American Tobacco Company, is a corporation But they are not, for if they were, created, organized and existing under the laws of the State of New Jersey. and is engaged in the business of buying, manufacturing and selling tosmoking tobacco and eigarettes.

arned in the law, and believes, and a alleges, that the defendant blackell's Durham Tobacco Company (c ew Jersey) has never complied wit he laws of the State of North Caro ing in that behalf made and proided; nor become domesticated as North Carolina corporation, and is no authorized, but is forbidden by the aws of the State of North Carolina t o the business aforesaid, or any oth r business, at Durham, in the county f Durham, or elsewhere within the State of North Carolina under the foresaid corporate name of "Black vell's Durham Tobacco Company." Company, which is the beginning of and said defendant is unlawfully doing the aforesaid business of manuacturing and selling smoking tobacc under the identical name of the plain iff, in violation of the laws of this tate, and to the plaintiff's irrepara ble damage and injury, and in viola

in the premises. That, as plaintiff is informed nd believes, and so affects, the defendant, the American Tobacco Comractural agreement or understanding Blackwell's Durham Tobacco Company (of New Jersey), the terms of which said contractural agreement of Durham doing business under that plaintiff, has been, and still is, aiding name, made an examination of the the defendant. Blackwell's Durham Tobacco Company (of New Jersey) it the aforesaid unlawful and unauthor ized business of manufacturing and selling smoking tobacco at Durham. co Company was dissolved as a North within the county of Durham, State

ion of the plaintiff's corporate rights

6. That the defendants, C. W. Toms ty of Durham, in the State of North terested in the aforesaid unlawful the middle of the back of his head the "third man" whom nobody knows but that the requirements of the law business, and are actively aiding, as penetrating the brain, which oozed out was from Fayetteville, and that he did sisting and co-operating with their cothe name of "Blackwell's Durham tutes after being shot, without speaking l'obacco Company." in violation of the plaintiff's aforesaid chartered corporcorporate name of "Blackwell's Dur ham Tobacco Company. Wherefore plaintiff demands judg

(1) For a perpetual injunction rgainst each and all of the defend ants, and their officers, agents, em ployes and servants, to enjoin and re strain them from now or hereafte using plaintiff's corporate name of Blackwell's Durham Tobacco Com-Therefore, yesterday, the charter was pany," or any other name so similar thereto as to lead to uncertainty o

> (2) For such other and further re lief as plaintiff may be entitled to, to gether with the costs of this action. GUTHRIE & GUTHRIE.

George R. Blackwell being duly worn, says that he is the president o he plaintiff corporation; that the oregoing complaint is true of his own snowledge, except as to the matters mation and belief, and as to such mat ters he believes it to be true Sworn and subscribed before me thi the 28th day of July, 1906.

W. J. HOLLOWAY, Notary Public.

(Notarial Seat.) North Carolina-Durham County: I, C. B. Green, Clerk of the Supe rior Court in and for the County of pany. The American Tobacco Com- Durham, State of North Carolina, The men drove to the corner and turn pany rushed at once-of course-into hereby certify that the foregoing is ed up Stronach's Row and the wagon orporation of New Jersey), C. W. foms, W. W. Flowers and D. W. An-

of office at Durham, in the County of Durham, State of North Carolina, this he 28th day of July, 1906. C. B. GREEN.

Herk Superior Court, Durham County North Carolina. (Official Seal.)

INTERVIEWS WITH ATTORNEYS. What They Have to Say of the Suit Against the American Tobacco Company.

tal of the new company is \$250,000. Chavis, however, was struck. After The branch of the business here is a the firing the men whipped the two tremendous affair and millions of big mules and drove away from the pounds of tobacco are handled an- scene at a furious pace. There was right to the name is established. Of nually and hundreds of thousands of great excitement among the negroes. course their right will be resisted by dollars invested. There are rumors for several minutes, some giving alarm- the said commitment: 'Whereas, the the American Tobacco Company and that an injunction may be issued or ing yells, and others cautioning jury by their verdict say Walter asked for at once. That would pre- for order and quiteness. Only three or factory here.

Mr. Guthrie says that his company theirs was not the sentiment of the now has th exclusive right to oper-crowd. No one touched the wounded ate under this name, and that he will negro till D. P. Lane, the negro lawfight in the courts for his rights. He yer, and Harry Wilder lifted him from said further that his company pro- the ditch into which he had fallen to poses to begin at once the building the portch of the meeting house, of factories for the purposes named, where he expired within a few min-Mr. Fuller who represents the Ameri- utes. can Tobacco Company, said that he Immediately after the shooting Geo. did not profess to know what was the Lane telephoned to the police station meaning or intention of the move and for an officer, and police captain Mart suit. It promises to be a big litiga- Thompson, with Patrolman Austin tion, however.

Twenty Year Battle.

sores, until I tried Bucklen's Arnica fied and went to Lane's store, Salve; which turned the tide, by cur- The fleeing white men were said to petitioner before you at the Supreme ing both, till not a trace remains." have passed the Soldiers' Home in Court room in Raleigh at such time as writes A. M. Bruce, of Farmville, Va. their wagon at a terrific speed, as may be designated by your honor, lest for old Ulcers, Cuts, Burns and though the mules were running away. Wounds, 25c. at all druggists.

True Greatness.

Are greater than their kind; They'd be of different mind.

-The Bohemian for August. Columbus, O., July 28.—Officials of the corner to the scene of the shootbacco in various forms, including the Norfolk and Western and the ing. Pennsylvania lines are arranging for Lane had re-opened his store, and 3. That the defendant, Blackwell's a new fast mail train connecting Chi- Fowler said to Lane: "What's the mat-

Was Attending a Circuit Holy Meeting.

SHOT BY WHITE MAN

Lynn Fowler, Suspected of the Crime Caught by Negroes and Held for Police, Denies the Deed-Syd

> Unknown White Man Wanted,

Williams and Son and

From News and Observer, July 25, Walter Chavis, an unmarried negro aged 22 years, was shot in cold blood and killed last night in front of the Holy Meeting house on Stronach' Row, above George Lane's bottom, in East Raleigh. Lynn Fowler, white about 40 years old, was accested on suspicion and is confined in the solle station, charged with the crime.

The shooting occurred a few minutes before ten o'clock, and was done by one of three intoxicated white men in a large double team wagon Besides Fowler, Syd Williams, apparently 35 or 40 years old, his son, stripling of a youth, and an unknown white man, barely 25 years of age. were in the wagon, all but the boy standing up. The wagon was standing in front of the house in which the meeting was being held, when suddenly there were four or five pistol reports, the shots being fired in rapid succession. The yard and porch of full of negroes, attending the circuit vilest East, holy meeting, attracted thither by the peculiar and fascinating service. It seems that no aim was taken at any a word or regaining consciousness.

Coroner Charles Separk gave perte rights under plaintiff's aforesaid mission for the family of Chavis to take his body to an undertaking establishment to be prepared for burial. and from there to be taken to his mother's home, on East Cabarrus street. where he will hold the inquest today. unless he decides that an inquest i

The team and wagon which th three white men were using were own ed by Mr. Charley Mitchell, a farme in St. Matthews' township, and th three men had spent the afternoon is the city selling watermelons. The appeared to have been drinking heavily, and on their boisterous drivin the early night to East Raleiga they nearly drove into several ca-

George Lane's store in the bottom commonly known by his name, is sit nated on the extension of East Davistreet outside the city limits. It was said that the three men with their and things therein alleged on infor- wagon had been in East Raleigh since shortly after dark. At twenty minutes of ten o'clock they drove to George Lane's store, near where Fowler dropped a pint bottle of whis key and asked Jim Marrow to pick i up, but the negro refused to do so Later Fowler denied that he had been with whiskey. To get rid of the rowdy white men Lane locked his doors and went to his home, a few yards away. true, perfect and complete copy of broke near the front of the house the complaint filed in my office on the where the negroes were holding their 28th day of July, 1906, in the action religious meeting. A woman from one therein pending, entitled: "Blackwell's of the houses brought out a lamp in Durham Tobacco Company vs. The the light of which the wagon was soon American Tobacco, Plackwell's Dur- repaired. They got in front of the ham Tobacco Company (an alleged house and shot into the crowd. There was dense darkness and it is no thought that Chavis, the unarmed man, was picked out by the man with Witness my hand and official seal the gun. Chavis had been talking to a colored girl in front of the house. All three men were said to have been loudly cursing. Some of the negroes asserted that before the shooting occurred they heard Syd Wilfiams cry: "Let me get out; I want to whip every ---is." But he made no attempt to leave the wagon, and it was also said tha no attention of either displeasure of curiosity had been given the whites by the negroes, and that the dreadful profanity and the deadly assault were absolutely unprovoked.

Some say there were five shots, oth Durham, N. C., July 28 .- The capi- ers that there were only four. Only yent the further operation of the four out of the fifty or sixty negroes advised violence in incendiary utter-Attorneys on both sides were seen, lances. They were for lynching, but

and County Constable Byrum proceeded directly to the spot; but before they arrived on the scene Patrol- that you now issue the writ of ha-"I was a loser in a twenty year bat- man Willis, whose beat was inside the beas corpus directed to Joseph H. tle with chronic piles and malignant limits in East Raleigh, had been noti- Sears, sheriff of Wake county, com-

could not keep up with it and gave termined." up the ill-matched chase. Tobe Jones and another negro, called "Sandy." Some people seem to think that they whose full name is unknown, are said to have seen Fowler jump out of the wagon at the corner of Martin street, run up Martin and across Haywood to Davie and down Davie to Geo. Lane's store. He did not try to go around

. A score of negroes gathered quickly sand,

e guilty man, but the negrees, now he could not leave except in the ev were, offering no violence and atapting no disorder. It was reported the city that it was suicidal for any g uprising of the negroes caused or by a white man, but the maous report originated in the dis sed brain of some evil person. Fowler declared that he had not cen in the wagon at all, but George on in the city during the day. He ben swore that he was not on the agon at the time of the shooting ut there were several negroes presnt who as promptly asserted that

carched a pint bottle of whiskey and knife were taken from him. Fowler was hand-cuffed and taker the police station by Policeman Villis and Constable Byrum, with a ong trail of the denizens and devils of the East following them.

hey saw him on the wagon, He de-

ied that he had been drinking of

hat he had had whiskey, but when

A Fowler Witness.

J. C. Pulley, who conducts a store Davie street, and is said to be a relative of Fowler, was seen at is store last night and said that Emmet Honeycutt, George Bishop and nimself, all white, were sitting in front of their store in conversation when Chavis passed them walking done but at a rapid pace a few minites before the firing took place, A. F. Marcum, white, declared that te saw Fowler at Barker's store, corter of Martin and Bloodworth streets. and shook hands with him ten minites before the shooting, and that it could hardly have been possible for Fowler to have fired the fatal shot, Fifteen minutes before the shootng Chavis was seen dancing to music by a rag-time screet orchestra on the place, as well as the house, were Davie street near the heart of the

Was it Williams?

particular person, the man with the only two men, Fowler and Williams, in the wagon, were correct, the occu-The ball struck him almost exactly in her last night further than to say that upon the ground, and protruded not know the stranger's name. He lefendants in the aforesaid unlawful through the skull from the center of still protested his innocence, saying business of manufacturing and selling the forehead, without breaking the that he was neither on the wagon moking tobacco as aforesaid under skin. Chavis died within twenty min- when Chavis was shot nor connected with the crime in any way, shape or

It is the opinion of the police that Syd Williams is the guilty man, not Fowler, and last night Constable Byrum and Deputy Sheriff Stell set out heavily armed for Williams' home. which is located seven miles east of Raleigh, one mile beyond Neuse river. Williams is said to be a dangerous man when in a passion of fear or anger, and his father, it was stated last night, has served a term in the State penitentiary for horse stealing. Fowler is a married man and has five or six children. He is employed at the Caraleigh Cotton Mills.

Attorney for Spence Applies for Habeas Corpus Writ.

Walter Chavis last Wednesday night, applied to Chief Justice Walter Clark

nitment from Coroner Separk, and corner and stopped. Williams said, he writ of habeas corpus is for the ["Let me get out, I can whip a whole purpose of having a bail fixed for street full of niggers." Fowler was not Spence until the next term of Wake there at all. He said he saw no rocks eriminal court. It sets out that the thrown. When Williams had been illing was done in self defense. The application was as follows:

State vs. Everett Spence. Hon. Walter Clark, Chief Justice of i the Supreme Court of North Caro-

"Your petitioner, Everett Spence, espectfully represents to the court

"First. That he is now in Wake ounty jail and in the custody of Jos-

ph H. Sears, sheriff of Wake county. and is restrained of his liberty by the "2. That the cause of his restraint s by virtue of a commitment by C.

A. Separk, coroner of Wake county. "3. The following is a copy of Chavis came to his death by a gun threatening mass of negroes. He said shot by the hands of Everett Spence, Fowler was not in the wagon when you are therefore commanded to re- the shooting occurred; his father was ceive the said Everett Spence into the lying on the bottom of the wagon and county jail of Wake county, there to Huffines was driving. remain until he is discharged accordng to law. "This July 26, 1906,

"C. A. SEPARK, Coroner.

That the restraint of your pe- saw no rocks thrown. titioner is illegal, because he acted in! Constable Byrum testified to arrestself defense when he fired the pistol ing the men and the confession of that which is alleged caused the death. | Spence, "5. The legality of the restraint been adjudged upon a prior writ of shooting. habeas corpus.

"Wherefore, your petitioner prays manding him to have the body of your Court room in Raleigh at such time as when and where the legality of his Charles Perry followed the wagon but restraint may be inquired into and de-

The Victor.

(Aloysius Coll in "Success Magazine." Though one may win the goal by luck, And one by chance be hero hailed, The palm is for the man of pluck

The man who is never quite sure, State of New Jersey), claims to be with the South, in order to shorten and Lane told him he did not know.

To trust. His found one are built on following members 0 " m m 1 m 4 31

New Story of East Raleigh Killing.

DEFENSE PLEA

Everett Spence, Seventeen Year Old Raleigh Boy, Confessed That He

Did the Shooting Because of Assault Upon Himself and Companions.

From News and Observer, July 27.

Some of the negroes in George

lane's Bottom, in East Rabigh are as

far from truth as the east is from the vest. Instead of being as pacific as heir statements Wednesday night. few minutes after Walter Chavis was killed, indicated, they themselves were partly responsible for the death of their brother of color, precipitating a row and easting stones at the men in the wagon, one of the rocks striking a young white man in the face. The coroner's jury empanneled yes erday by Coroner Charles Separk t nquire into the death of Chavis, reurned a verdict saying that the n gro came to his death from a pisto shot wound, the weapon being in th hands of Ernest Spence, a white boy of this city, aged 17 years. It was Spence who was struck by the rock flung insolently at him by some member of the black mob.

It developed that Lynn Fowler, the white man arrested Wednesday night soon after the shooting and charged with the crime was not in the wago: during the shooting, and he was orderd to be discharged.

The negroes, however, who held The police believe that there were that there were three men and a boy the 17-year-old white boy who confess the man supposed to have come from Fayetteville, and whose home is believed to be in South Carolina.

Early yesterday morning, at about day-break Constable Byrum and Deputy Sheriff Stell reached Williams' home, seven miles east of Raleigh, in St. Matthews township, and called on country from the rule the inmates to surrender. Williams and the special privilege and Huffines were immediately arrested and tied, and the small sent to hitch up the team.

that he had something to tell them They expected that he would "squeat" on the guilty man, whoever he might be, and went to him, but great was State delegations to that he himself had done the shooting He declared that it was in self defense. and that the occupants of the wagon

were being attacked by the negroes, The officers had such respect for the poy's manliness in acknowledging the authorship of the angel of Chavis' leath that they did not handcuff him

n bringing him to the city. The investigation disclosed the fact that rocks were thrown by the negrees who had assembled around the agon-one of which struck the boy pence in the face. Spence, who is nial of doing the shooting, but stated that he did so because the negroes were throwing rocks at him and the other occupants of the wagon, Dr. Rowland was examined first

He said that he had extracted the bullet which he found lodged in a crevice Col. J. C. L. Haris, attorney for in the frontal bone just over the left Everett Spence, the 17 year old white eye. The entry was in the lower part boy charged with killing th negro of the rear of head on the right side. The range of the bullet was from left behind to right in front upwards. Geo. Lane, Sr., testified that the yesterday morning for a writ of ha- men came to his store and Mr. Sid beas corpus. By consent Judge Clark Williams bought a quart of cider. set the case for hearing at 4 o'clock | Spence came in the store with Wilnext Tuesday afternoon, in the Su- liams. He said Williams cursed a great deal. He put Williams in the Spence is held in jail on a com- wagon. The men drove up to the

put in the wagon again and it started

off someone in the wagon began shoot-

ing and shot five times,

Sam Williams, the 13-year-old son of Syd Williams, was a splendid witness, telling a good story in a straightforward manner. He said his father had fallen to the ground while trying o get out of the wagon, and somebody then took his whiskey from his pocket. He said the negroes were cursing and boisterous, and that one of them called his father a vile name, and struck him in the face with a brick. The number of shadows around them blacker than the darkness began to increase and the throwing of rocks was becoming more dangerous. A large stone struck the tail-board of the wagon, he said, and then Spence began

The testimony of Huffines corroborates that of Sam Williams, and Irene Helladay correborates Geo. Lane's story of the killing. She said she

The jury went out to Lane's bot- at the Bryan Receipt of your petitioner has not already tom and viewed the scene of the

> It is probable that Spence will be given a preliminary hearing today. All the other defendants were dis-

STATE DEMOCRATIC EX. COM.

Meeting of Committee Called in Raleigh on Monday, August Sixth,

The State Democratic Executive Committee will meet in the Senate Chamber on Monday, August 6th, at souri, is chairman. retary of the committee and to trans- R. B. Glenn, Mr. Will act such other business as may come and Mr. Josephus India before the committee. This will be the first meeting of the committee since to go to New York the State Convention, and it will set are requested to will Who conquers where he once had the ball rolling for the campaign. Daniels so that sends This meeting is called by State Chair- for them at Madison man Simmons and the notices are be. It is expected that 3. That the defendant, Blackwell's a new fast mail train connecting the Lane, what sine many purchase Tobacco Company, (of the cago with Norfolk, Va., and the West ter, Lane, down here in the bottom?" "guesses," or "presumes," is no man boro Convention is composed of the ing sent out by Secretary A. J. Fello, enough seats for its de "imagines," The committee elected at the Greens- no allotment has yet

W. M. Honk, Edents Elizabeth CHy. Second District x J. H. Exum, W.

Fourth District

Fifth District | orn, J. S. Mannin teld. Wentworth, p Sixth District-

hate Onk, W. H. C. Seventh District Locksville: J. H. C. Eighth District Themarka, Walter Ar

. D. Watte, State ... VII. Dochson Ninth District Sharbotter ob. 15, and R. Ray, McAdensynn

Teath District

North Carolina Will Send a Big Delegation to New York.

Governor Glenn, teeman Daniels, Vi-Congress and Other by

The reception to be also

America's First Citizent

he Democracy of the at candidate for Vice-11

this State, Mr. Josephus Done 'arolina, yesterday

Charles B. Aycock, Car

"NORMAN

"WILLIAM" "Travelless by Mr. Daniels sent 40-

Norman E. Mack. Was Broadway and 4 York, N. Y. "North Carolina delegation. In the Governor of the States Senators, all ional House of Live this State, State of tives of the State Art and other leading all a Reserve seats for

"JOSEPHI -"National I in On Reception Commit

least. Will write

Three North Car all appointed on the R tee, of which Govern All North Carollal

First District-W. G. Lamb, Wil- ingest,-A. Ward.